



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

COPY MAILED

MAY 31 2006

OFFICE OF PETITIONS

Applicant: Gallagher et al.
Appl. No.: 10/798,714
Filing Date: March 20, 2004
Title: FUEL CELL STACKS OF ALTERNATING POLARITY MEMBRANE ELECTRODE ASSEMBLIES
Attorney Docket No.: 61368-223339
Pub. No.: US 2005/0214863 A1
Pub. Date: September 15, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221, filed on May 2, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of another application that was submitted as part of an information disclosure statement.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The request for corrected publication received on May 2, 2006, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in

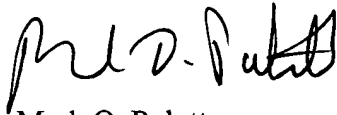
¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

due course, unless the application is allowed and the patent issues before the application is republished.

The documents scanned on July 8, 2004, which were improperly indexed as specification, claims and drawings and published have been relabeled as a non-patent literature.

Applicant is reminded that paper copies of pending U.S. Patent Applications are not required for compliance with 37 CFR 1.98. See Waiver of the Copy Requirement in 37 CFR 1.98 for Cited Pending U.S. Patent Applications, 1287, Off. Gaz. Pat. Office Notices 163 (Oct. 19, 2004). The Office had provided a waiver for the former requirement in Sec. 1.98(a)(2)(i) for a copy of each cited U.S. patent or U.S. patent application publication in IDSs submitted in U.S. national patent applications filed after June 30, 2003, and international applications that have entered the national stage under 35 U.S.C. 371 after June 30, 2003, because these applications are stored in electronic form in the Office's IFW system. See Information Disclosure Statements May Be Filed Without Copies of U.S. Patents and Published applications in Patent Applications filed after June 30, 2003, 1273 Off. Gaz. Pat. Office 55 (Aug. 5, 2003).

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

A handwritten signature in black ink, appearing to read 'Mark O. Polutta', is positioned above the printed name.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy